

## 1 HOUSE BILL NO. 734

2 INTRODUCED BY LAWSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE DESIGNATED STATE AGENCY FOR THE  
5 DEVELOPMENTAL DISABILITIES PLANNING AND ADVISORY COUNCIL TO THE DEPARTMENT OF  
6 COMMERCE; AMENDING SECTIONS 2-15-2204 AND 53-20-206, MCA; AND PROVIDING AN EFFECTIVE  
7 DATE."

8

9 WHEREAS, the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law  
10 106-402, requires each state to have a state council on developmental disabilities and to designate a state  
11 agency to provide support and administrative services to the council without interference or placement of  
12 conditions upon the operations of the council; and

13 WHEREAS, the Developmental Disabilities Assistance and Bill of Rights Act of 2000 recognizes only  
14 one council in each state, which may take the form of a nonprofit corporation, and the state Developmental  
15 Disabilities Planning and Advisory Council is Montana's council; and

16 WHEREAS, the Developmental Disabilities Assistance and Bill of Rights Act of 2000 further states that  
17 each state is required to designate a state agency to administer the federal funds, but that the designated state  
18 agency may not provide or pay for services for individuals with developmental disabilities.

19

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21

22 NEW SECTION. **Section 1. State developmental disabilities planning and advisory council.** The  
23 state may contract with a nonprofit corporation for the purposes of carrying out the responsibilities delegated to  
24 the statewide developmental disabilities planning and advisory council appointed pursuant to 2-15-2204 in  
25 accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402,  
26 and this section. Approval of the contract delegating the responsibilities of the council to a nonprofit corporation  
27 must be in the form of a letter signed by the secretary of the federal department of health and human services  
28 or the secretary's designee.

29

30 **Section 2.** Section 2-15-2204, MCA, is amended to read:

1           **"2-15-2204. Developmental disabilities planning and advisory council.** (1) The governor shall  
 2 appoint a developmental disabilities planning and advisory council in accordance with the Developmental  
 3 Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, CODIFIED AT 42 U.S.C. 15001, ET SEQ.  
 4           ~~(2) The council is composed of 29 members and includes the following:~~  
 5           ~~—— (a) six persons with developmental disabilities;~~  
 6           ~~—— (b) six persons who are:~~  
 7           ~~—— (i) parents or guardians of a child with developmental disabilities; or~~  
 8           ~~—— (ii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who~~  
 9           ~~cannot advocate for themselves;~~  
 10           ~~—— (c) six persons who may be:~~  
 11           ~~—— (i) a person with a developmental disability;~~  
 12           ~~—— (ii) a person who is the parent or guardian of a child with a developmental disability; or~~  
 13           ~~—— (iii) a person who is an immediate relative or guardian of an adult with mentally impairing developmental~~  
 14           ~~disabilities who cannot self-advocate;~~  
 15           ~~—— (d) a representative of the program of services provided under the authority of the Rehabilitation Act~~  
 16           ~~of 1973, 29 U.S.C. 701, et seq.;~~  
 17           ~~—— (e) a representative of the program of services provided under the authority of the Older Americans Act~~  
 18           ~~of 1965, 42 U.S.C. 3001, et seq.;~~  
 19           ~~—— (f) a representative of the program of services provided under the authority of Title V of the Social~~  
 20           ~~Security Act, 42 U.S.C. 701, et seq.;~~  
 21           ~~—— (g) a representative of the programs of services provided under the authority of Title XIX of the Social~~  
 22           ~~Security Act, 42 U.S.C. 1396, et seq.;~~  
 23           ~~—— (h) a representative of the program of services provided under the authority of the Individuals With~~  
 24           ~~Disabilities Education Act, 20 U.S.C. 1400, et seq.;~~  
 25           ~~—— (i) one member of the state senate;~~  
 26           ~~—— (j) one member of the state house of representatives;~~  
 27           ~~—— (k) a representative of the university-affiliated or satellite program on developmental disabilities created~~  
 28           ~~pursuant to 42 U.S.C. 6061;~~  
 29           ~~—— (l) a representative of the state protection and advocacy system created pursuant to 42 U.S.C. 6041;~~  
 30           and

1 ~~\_\_\_\_\_ (m) two representatives of nongovernmental in-state entities that are concerned with the provision of~~  
 2 ~~services to persons with developmental disabilities.~~

3 (2) IN ADDITION TO THE MEMBERS APPOINTED UNDER SUBSECTION (1), THE COUNCIL MUST INCLUDE ONE MEMBER  
 4 OF THE SENATE AND ONE MEMBER OF THE HOUSE OF REPRESENTATIVES.

5 ~~(3)(2)(3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), MEMBERS OF THE COUNCIL SERVE 1-YEAR TERMS.~~  
 6 ~~Nine of the members appointed to the council pursuant to subsections (2)(a) through (2)(c) must be appointed~~  
 7 ~~by the The governor shall appoint one-half of~~

8 (B) OF THE MEMBERS DESCRIBED IN 42 U.S.C. 15025(B)(3) WHO REPRESENT PERSONS WITH DEVELOPMENTAL  
 9 DISABILITIES AND PARENTS OR RELATIVES OF PERSONS WITH DEVELOPMENTAL DISABILITIES, THE GOVERNOR SHALL APPOINT:

10 (I) NOT LESS THAN ONE-HALF OF THE MEMBERS to serve for terms concurrent with the gubernatorial term  
 11 and until their successors are appointed. ~~The remaining members serving on the council pursuant to subsections~~  
 12 ~~(2)(a) through (2)(c) must be appointed by the governor; and~~

13 (II) the remaining one-half of the members to serve for terms ending on January 1 of the third year of  
 14 the succeeding gubernatorial term and until their successors are appointed.

15 ~~(4) Members appointed to the council to fulfill representation requirements of subsections (2)(d) through~~  
 16 ~~(2)(m) serve 1-year terms.~~

17 ~~(5) At least one member appointed to the council pursuant to subsections (2)(a) through (2)(c) must be~~  
 18 ~~either:~~

19 ~~\_\_\_\_\_ (a) a person with a developmental disability who resides or previously resided in an institution; or~~

20 ~~\_\_\_\_\_ (b) an immediate relative or guardian of a person with a developmental disability who resides or~~  
 21 ~~previously resided in an institution.~~

22 ~~(6)(3)(4) Members appointed to the council pursuant to subsections (2)(a) through (2)(c) may also be~~  
 23 ~~selected to represent the geographical regions and the racial and ethnic composition of the state, including~~  
 24 ~~American Indians.~~

25 ~~(7)(4)(5) The Except as provided in [section 1], the council is allocated to the department of commerce~~  
 26 ~~for administrative purposes only and, unless inconsistent with the provisions of 53-20-206 and this section, the~~  
 27 ~~provisions of 2-15-121 apply. The department of commerce shall remain the designated state agency for~~  
 28 ~~funding purposes if the responsibilities of the council are delegated by contract to a nonprofit corporation."~~

29

30 **Section 3.** Section 53-20-206, MCA, is amended to read:

1           **"53-20-206. Planning and advisory council.** (1) ~~The~~ If the duties of the planning and advisory council  
 2 are delegated to an administratively attached state agency, the provisions of this section apply.

3           (2) The planning and advisory council may elect from among its members the officers necessary for  
 4 the proper management of the council.

5           ~~(2)~~(3) The council may adopt rules governing its own organization and procedures.

6           ~~(3)~~(4) A majority of the members of the council constitutes a quorum for the transaction of business.

7           ~~(4)~~(5) The council ~~may~~ shall employ and fix the compensation and duties of necessary staff and control  
 8 the location of its office.

9           ~~(5)~~(6) A council member, unless ~~he is~~ the member is a full-time salaried officer or employee of this state  
 10 or any of the political subdivisions of this state, is entitled to be paid in an amount to be determined by the  
 11 council, not to exceed \$25, for each day in which ~~he~~ the member is actually and necessarily engaged in the  
 12 performance of council duties. A council member is also entitled to be reimbursed for travel expenses incurred  
 13 while in the performance of council duties as provided for in 2-18-501 through 2-18-503. Members who are  
 14 full-time salaried officers or employees of this state or any political subdivisions of this state are not entitled to  
 15 be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided  
 16 for in 2-18-501 through 2-18-503.

17           ~~(6)~~(7) The council shall:

18           (a) advise the department, other state agencies, councils, local governments, and private organizations  
 19 on programs for services to persons with developmental disabilities; and

20           ~~(b) develop a plan for a statewide system of community-based services for persons with developmental~~  
 21 ~~disabilities; and~~

22           ~~(e)~~(b) serve in any capacity required by federal law for the administration of federal programs for  
 23 services to persons with developmental disabilities."  
 24

25           NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an  
 26 integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section 1].  
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28           NEW SECTION. Section 5. Instructions to code commissioner. The Code Commissioner shall  
 29 renumber 2-15-2204 as an integral part of Title 2, chapter 15, part 18, and make any necessary corresponding  
 30 changes to reflect the numbering.

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2           NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2003.

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